

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No.36 of 2021

Ram Singh and another Appellants

Versus

State of UttarakhandRespondent

With

Criminal Appeal No.37 of 2021

Jogendra Singh and another Appellants

Versus

State of UttarakhandRespondent

Mr. TPS Takuli, learned Advocate for the appellants.

Mr. V.S. Rathore, learned AGA for the State.

Hon'ble R.C. Khulbe, J.

Since both the appeals are arising from the same judgment and order dated 19.01.2021, accordingly, both the appeals are being decided together.

2. The present appeals are directed against the judgment and order dated 19.01.2021 passed by the Third Addl. Sessions Judge, U.S. Nagar in S.T. Nos.89 of 2011 and 151 of 2013, whereby the learned Trial Court convicted the appellants, namely, Ram Singh, Prem Singh, Jogendra Singh and Raju @ Sai Ditta u/s 307/149 IPC and sentenced each of them to undergo ten years' S.I. with fine of Rs.10,000/- each; they were also convicted u/s 504 IPC and sentenced to go six months' R.I. with fine of Rs.1,000/- each; they were also convicted u/s 506 IPC and sentenced to one years' R.I. with fine of Rs.1,000/- each; they were also convicted u/s 147 IPC and sentenced to undergo six months' imprisonment with fine of Rs.1,000/- each; they were also convicted u/s 148 IPC and sentenced to undergo one year imprisonment

with a fine of Rs.1,000/- each. All the aforesaid sentences shall run concurrently.

3. In short, case of the prosecution is that PW1 Balbir Singh submitted an information with P.S. Rudrapur, District U.S. Nagar with the allegations that on 21.4.2010 at about 04:45 PM, when his brother Balvinder Singh and Sarjit Singh were coming from their agricultural fields, as soon as they reached near the house of Prem Singh, the accused, who were armed with weapons, abused the brothers of informant and committed Marpit with them, and the accused Prem Singh caused injury by using firearm to Balvinder Singh. On the basis of said information, an FIR Ex.Ka-1 was lodged with the police station. After investigation, charge-sheet (Ex.Ka-9) was submitted. Accordingly, after compliance of provision of Section 207 Cr.P.C., the case was committed to the court of sessions. The Sessions Judge took the cognizance and accordingly charges were framed. The appellants denied all the allegations and claimed to be tried.

4. To bring home the guilt of the appellants, the prosecution produced PW1 Balbir Singh, PW2 Sarjit Singh, PW3 Balvinder Singh, PW4 C.P. Chandra Shekhar Joshi, PW5 S.I. Lalit Mohan Joshi, PW6 Dr. Syed Hassan Abbas, PW7 S.I. Mukesh Chauhan, PW8 S.I. P.R. Angari and PW9 Dr. Himanshu Bansal.

5. After completion of prosecution evidence, statements of appellants were recorded u/s 313 Cr.P.C. They stated that they did not commit any crime; and there is no evidence against them.

6. Upon consideration of the oral and documentary evidence, by order dated 19.1.2021, the Third Addl. Sessions Judge, U.S. Nagar convicted the appellants for the offences punishable u/s 307 r/w 149,

504, 506, 147 and 148 IPC, and sentenced them as mentioned in paragraph no.1 of the judgment.

7. Feeling aggrieved by the order of conviction and sentence, the present appeals are preferred before this Court.

8. Heard the learned counsel for the appellants as well as learned counsel for the State.

9. It is submitted by learned counsel for the appellants that he does not want to challenge the conviction of the appellants, as the same is based on merits and there is no illegality therein. He confined his prayer to the extent that since the matter relates to the year 2010, hence the Court may kindly consider it appropriate to reduce the sentence awarded to the appellants, as the appellants have already served more than one year in jail.

10. The learned counsel for the State also submits that the sentence awarded by the trial court u/s 307 read with u/s 149 IPC is on the higher side.

11. I have also gone through the evidence on record and come to this conclusion that the trial court has convicted the appellants based on proper evidence, there is no illegality in the impugned findings. From a perusal of the medical report, it is clear that although it is a case of gunshot injury but that is not on the vital part; and the matter relates to the year 2010.

12. Having heard learned counsel for the parties and on perusal of the record of the case, and considering the fact that the incident in question is quite old and it seems to have occurred at the spur of the moment, the appellants do not have any criminal antecedent in their past life, they are not required in any other criminal case except the one in question, it is considered to be just and proper to alter the sentence to the appellants from 10 years to the extent of eighteen months' R.I. under Section

307/149 IPC; as regards other sentences awarded u/s 504/506/147/148 IPC are concerned, the same will remain intact.

13. In view of the foregoing discussion, the appeals are allowed in part. The appellants are sentenced as follows: -

A. All the appellants are sentenced to undergo eighteen months' R.I. u/s 307 read with Section 149 IPC instead of ten years' S.I. as awarded by the court below;

B. The conviction and sentence awarded to them under sections 504/506/147/148 IPC are left intact.

C. The fine awarded under each section is also maintained, and they shall deposit the fine as imposed by the trial court.

D. All the sentences shall run concurrently.

E. On completion of period of sentence as modified by this Court, they shall be released from jail as per law and after due verification of records.

14. Let a copy of this judgment and order be sent to the court concerned for compliance.

(R.C. Khulbe, J.)
30.04.2021